

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 234526

62

ORIGIN L-03

INFO OCT-01 ARA-16 ISO-00 SCA-01 JUSE-00 SS-20 NSC-10

SEC-03 EUR-25 CIAE-00 INR-10 NSAE-00 RSC-01 SSO-00

NSCE-00 INRE-00 /090 R

DRAFTED BY L/M/SCA:LAHUMMER:LMS

APPROVED BY L/M/SCA:KEMALMBORG

L:MBFELDMAN

JUSTICE:MSTEIN

ARA/CARMR.WAUCHOPE

----- 118732

O R 292239Z NOV 73

FM SECSTATE WASHDC

TO AMEMBASSY NASSAU IMMEDIATE

INFO AMEMBASSY SAN JOSE

LIMITED OFFICIAL USE STATE 234526

E.O. 11652: N/A

TAGS: PFOR, CPRS, BF

SUBJ: EXTRADITION - ROBERT L. VESCO

REF: NASSAU 1814

1. DEPT HAS RESEARCHED ITS FILES ON NOVICK CASE RAISED BY DUPUCH AS PRECEDENT FOR NON-EXTRADITABILITY OF 18 USC 1343.

2. NOVICK WAS INDICTED ON 17 CHARGES INVOLVING BOTH 18 USC 1341 (MAIL FRAUD) AND 1343 (FRAUD BY WIRE). HOWEVER, THE DEPT'S NOTE OF MARCH 29, 1960 REQUESTING EXTRADITION OF NOVICK REFERRED ONLY TO THE CHARGES OF MAIL FRAUD, AND STATED THAT THE OFFENSE OF USE OF MAILS TO DEFRAUD IS COVERED BY THE SUPPLEMENTARY EXTRADITION CONVENTION OF 1951 BETWEEN THE U.S. AND CANADA. THE NOTE CONTINUED WITH THE FOLLOWING PARAGRAPH: QTE HYMAN D. NOVICK IS LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 234526

ALSO CHARGED WITH CERTAIN OTHER OFFENSES IN CONNECTION

WITH HIS BUSINESS ACTIVITIES. HOWEVER, INASMUCH AS THESE OTHER OFFENSES DO NOT APPEAR TO COME WITHIN THE STIPULATIONS OF THE EXTRADITION AGREEMENTS IN FORCE BETWEEN THE UNITED STATES AND CANADA, HIS EXTRADITION WILL NOT BE REQUESTED IN CONNECTION WITH THESE OFFENSES - - UNQTE

3. EVEN THOUGH THE U.S. DID NOT REQUEST EXTRADITION FOR

1343 THE ISSUE WAS APPARENTLY RAISED AT NOVICK'S EXTRADITION HEARING FOR THE SUPERIOR COURT OF THE PROVINCE OF QUEBEC, IN ITS DECISION, WROTE QTE THE APPLICATION INTRODUCES SOME QUESTIONS FOR WHICH WE HAVE NO PRECEDENT, BECAUSE OFFENSES IN VIOLATION OF SECTION 1343 ARE ADMITTEDLY NON-EXTRADITABLE. UNQTE THE COURT FOUND NOVICK EXTRADITABLE ON THE MAIL FRAUD COUNTS.

4. IT SHOULD BE POINTED OUT TO THE BAHAMIAN COURT, HOWEVER, THAT THE NOVICK DECISION WAS RENDERED LONG BEFORE THE BLASSINGAME DECISION IN NEW YORK SETTING GRAVAMEN OF 1343 OFFENSE AS FRAUD AND THAT OUR TREATY WITH CANADA CONTAINS THE OFFENSE QTE FRAUD BY A BAILEE, BANKER, AGENT, FACTOR, TRUSTEE, OR DIRECTOR OR MEMBER OR OFFICER OF ANY COMPANY, MADE CRIMINAL BY THE LAWS OF BOTH COUNTRIES. UNQTE WERE NOVICK EXTRADITION TO BE BROUGHT TODAY, WE WOULD REQUEST HIS EXTRADITION UNDER THIS FRAUD PROVISION AS WELL AS THE SPECIFIC MAIL FRAUD PROVISION. DEPT'S 1960 NOTE TO CANADIANS REPRESENTED DEPT'S AND JUSTICE POSITION ON 1343 13 YEARS AGO, A POSITION WHICH BOTH DEPARTMENTS NOW CONSIDER ERRONEOUS.

5. IT SHOULD ALSO BE POINTED OUT TO COURT THAT NOVICK EXTRADITION WAS UNDERTAKEN PURSUANT TO SPECIFIC MAIL FRAUD PROVISION IN OUR EXTRADITION TREATY WITH CANADA AND THAT EXTRADITION BETWEEN CANADA AND UNITED STATES IS NOT REPEAT NOT PURSUANT TO 1931 US/UK TREATY. 1931 US/UK TREATY CONTAINS NO SEPARATE MAIL FRAUD PROVISION. PRECEDENT FOR 1343 UNDER US/UK TREATY REMAINS THE ALLOTEY CASE.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 234526

6. REGARDING DUPUCH'S ALLEGATION THAT FALSE PRETENSE MUST TAKE PLACE BEFORE THE ACTION (I.E. SENDING THE WIRE), DEPT AND JUSTICE BELIEVE MAIN RELIANCE WILL HAVE TO BE ON WALLACE-WHITFIELD TO ARGUE THIS, AS WE ARE UNFAMILIAR WITH ARTICLE 59 OF BAHAMIAN CRIMINAL CODE. ARTICLE 59 WAS NOT INCLUDED IN SECTIONS OF CODE PROVIDED TO DEPT IN JULY. AFFIDAVITS SHOW TELEGRAM SENT ON

JANUARY 4, 1972, BUT MATTER OF UNEXPLAINED PAYMENT TO BUHL WAS NOT BROUGHT UP WITH VESCO BY RICHARDSON UNTIL OCTOBER 1972, ALTHOUGH PAYMENT TO BUHL HAD BEEN ON BOOKS OF ICC SINCE DATE OF TELEGRAM. HOWEVER, ARGUMENT SHOULD BE MADE THAT PAYING BUHL OUT OF ICC FUNDS BY MEANS OF THE TELEGRAM WAS JUST AS MUCH PART OF THE FRAUD AS THE LATER MISREPRESENTATIONS. FRAUD HAS BEEN DEFINED IN AMERICAN LAW AS ANYTHING CALCULATED TO DECEIVE ANOTHER TO HIS PREJUDICE AND ACCOMPLISHING THIS PURPOSE, WHETHER IT BE AN ACT, A

WORD, SILENCE, THE SUPPRESSION OF THE TRUTH, OR OTHER DEVICE CONTRARY TO THE PLAIN RULES OF COMMON HONESTY. UNDER THIS DEFINITION THE ACT OF SENDING THE WIRE WHICH RESULTED, THE SAME DAY, IN A PAYMENT TO BUHL BEING ENTERED ON THE BOOKS OF ICC, WAS AN INTEGRAL PART OF THE FRAUD.

7. ON UNRELATED SUBJECT, AUSA LOWE HAS REPORTED TO JUSTICE THAT OSADEBAY HAS BEEN TRYING TO DISCREDIT ALLOTEY DECISION AND ONE OF HIS TOOLS HAS BEEN ARGUMENT OF ALLOTEYS ATTORNEYS, REPORTED IN DECISIONS, THAT ALLOTEYS ARE BEING PROSECUTED BECAUSE THEY ARE BLACK. JUSTICE WANTS WALLACE-WHITFIELD TO CONVEY TO OSADEBAY THAT EMMANUEL MOORE, ASSISTANT U.S. ATTORNEY, EASTERN DISTRICT OF NEW YORK, WHO IS RESPONSIBLE FOR ALLOTEY PROSECUTION IN U.S., IS HIMSELF BLACK.

8. INFORMATION FROM DEPT'S FILE ON NOVICK CASE IS PROVIDED TO EMBASSY FOR BACKGROUND AND SUCH USE AS THE SITUATION BEFORE OSADEBAY SEEMS TO INDICATE. KISSINGER

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 29 NOV 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: worrelsw
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE234526
Document Source: CORE
Document Unique ID: 00
Drafter: LAHUMMER:LMS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t1973114/aaaaactr.tel
Line Count: 146
Locator: TEXT ON-LINE
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: NASSAU 1814
Review Action: RELEASED, APPROVED
Review Authority: worrelsw
Review Comment: n/a
Review Content Flags:
Review Date: 16 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16-Jan-2002 by kelleyw0>; APPROVED <07 MAR 2002 by worrelsw>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: EXTRADITION - ROBERT L. VESCO
TAGS: PFOR, CPRS, BF
To: NASSAU
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005